

Message Text

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FM AMEMBASSY QUITO

TO SECSTATE WASHDC IMMEDIATE 1782

C O N F I D E N T I A L QUITO 7105

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LIMDIS

FOR: L--STEVE SCHWEBEL; ARA--JOSEPH GRUNWALD AND
ANTHONY ALLITTO; AND EB--SMITH

E.O. 11652: GDS

TAGS: ENRG PFOR EC

SUBJ: GULF--GOE DISPUTE

REFS: (A) STATE 243150; (B) QUITO 7086

1. SUMMARY: EMBASSY BELIEVES THAT THE GOE IS INDEED
COMMITTED TO A BUY-OUT IN GOOD FAITH; AND FOR THE MOST PART
ORAL COMMITMENTS FROM THE GOE WILL COVER AMBIGUOUS
LANGUAGE IN MEMORANDUM. END SUMMARY.

2. THE AMBASSADOR GAVE A COPY OF A MEMORANDUM OF ORAL
COMMITMENTS (REPRODUCED IN REF B) TO MINISTER OF FINANCES
CESAR ROBALINO EVENING OF SEPTEMBER 30; ROBALINO ACCEPTED
WITHOUT RESERVATION ALL COMMITMENTS. PRESIDENT POVEDA ALSO
ASSURED THE AMBASSADOR THAT THE GOE WOULD ABIDE BY POINTS
(C) AND (D). EMBASSY HOPES THAT THE GOE'S RECOGNITION
OF THESE ORAL COMMITMENTS (PARTICULARLY POINT D) WILL
ALLEVIATE GULF'S CONCERN ABOUT LANGUAGE IN MEMORANDUM
RAISED IN REFTEL.

3. EMBASSY OFFERS THE FOLLOWING COMMENTS ON POINTS
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RAISED IN REFTEL:

PARA (2) EMBASSY FRANKLY SHARED GULF'S CONCERN THAT THE CHANGE IN LANGUAGE FROM "LAWS IN FORCE AT THE DATE OF THESE ASSURANCES" TO "LAWS IN FORCE AT THE DATE OF TRANSFER" MIGHT ALLOW THE GOE ONCE AGAIN TO CHANGE THE RULES DURING THE COURSE OF THE NEGOTIATIONS. FOR THIS REASON, AMBASSADOR ADDED POINT (D) IN MEMORANDUM OF ORAL COMMITMENTS. NOW THAT THIS POINT HAS BEEN ACCEPTED BY BOTH POVEDA AND ROBALINO, WE CONSIDER IT MOST UNLIKELY THAT THE GOE WILL PASS LAWS PREJUDICIAL TO GULF'S NEGOTIATIONS.

4. RE PARA (3) EMBASSY SUPPOSES THAT THE GOE WAS UNWILLING TO ACCEPT THE PHRASE "AN INDEPENDENT AUDIT OF GULF'S ACCOUNTING RECORDS" RE THE PIPELINE BECAUSE THE GOE DOES NOT ACCEPT TEXACO-GULF'S CLAIM THAT THE ORIGINAL COST OF THE PIPELINE WAS APPROXIMATELY \$102 MILLION. (SOME TIME AGO, TECHNICIANS OF THE MEXICAN STATE OIL COMPANY PERMEX HAPHAZARDLY ESTIMATED THE COST OF THE PIPELINE AT \$70 MILLION.) WE CAN ONLY HOPE THAT "A SPECIALIZED AUDIT" WILL APPROXIMATE TEXACO-GULF'S BOOK VALUE OF THE PIPELINE.

5. RE PARA (4) OF REFTEL, THE AMBASSADOR MET WITH ROBALINO EVENING OF SEPTEMBER 30 TO PERSUADE HIM THAT THE LANGUAGE IN THIS SECTION SHOULD BE CHANGED TO "IF THERE ARE DIFFERENCES IN THE AMOUNT OF DEBTS OF THE GOE OR OF GULF, ETC." AMBASSADOR ARGUED AT LENGTH THAT GULF HAD NO RECOURSE TO AN AUDIT IF THE GOE SHOULD DECIDE TO IMPOSE CLAIMS FOR GULF'S "DEBTS" TO THE GOE, E.G., CLAIMS BASED ON THE GOE'S INTERPRETATION OF DECREE 285 OR GULF'S MAINTENANCE OF THE WELLS. ROBALINO MADE THE FOLLOWING POINTS IN RESPONSE: THAT THE RELEVANT REFERENCE TO GULF'S DEBTS WAS INCLUDED IN THE FIRST PARAGRAPH OF THE MEMORANDUM (I.E., THE OVERDUE DEPOSITS); THAT THE GOE WOULD HAVE BEEN WILLING TO REVISE THE MEMORANDUM HAD IT BEEN PREVIOUSLY REQUESTED BY GULF OR THE EMBASSY, BUT THAT CHANGES NOW WOULD REQUIRE ANOTHER MEETING OF THE INTER-MINISTERIAL COMMISSION AND FURTHER DELAYS IN DELIVERY OF THE FINAL MEMORANDUM; THAT THE LANGUAGE DID NOT MATTER IN ANY CASE SINCE GULF'S "DEBTS" TO THE GOE WERE NOT IN QUESTION, ONLY CONFIDENTIAL

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THE GOE'S DEBTS TO GULF; THAT AS MINISTER OF FINANCES, HE COULD ASSURE THE AMBASSADOR THAT THERE WOULD BE NO PROBLEMS REGARDING THIS CLAUSE DURING THE NEGOTIATIONS WITH GULF. EMBASSY THUS NOW HAS AN ORAL COMMITMENT FROM ROBALINO ON THIS POINT, AND WE FEEL THE LIKELIHOOD OF UNREASONABLE CLAIMS AGAINST GULF IS ACCORDINGLY GREATLY REDUCED.

6. RE PARA (7) ROBALINO WAS MOST ADAMANT THAT THE WORD "OBLIGATIONS" BE DROPPED FROM THE DRAFT MEMORANDUM. HE TOLD THE AMBASSADOR INCLUSION OF THIS PHRASE WOULD BE AN OPEN-ENDED GOE OBLIGATION TO ASSUME ALL(REPEAT ALL) OF GULF LIABILITIES.

7. MORE GENERALLY, THE AMBASSADOR IS ASSURED BY ROBALINO AND POVEDA THAT THE GOE IS COMMITTED TO A BUY-OUT IN GOOD FAITH OF GULF'S ASSETS IN ECUADOR. THE GOE'S WILLINGNESS TO DROP THE DEMAND FOR CONFIRMED LETTERS OF CREDIT AND TO GIVE THE USG A MEMORANDUM SPECIFYING TERMS FOR A GUY-OUT (INCLUDING SEVERAL CHANGES PROPOSED BY GULF), IN RETURN FOR PAYMENT OF GULF'S OVERDUE DEPOSITS, IS PRIMA FACIE EVIDENCE OF ITS COMMITMENT TO NEGOTIATE IN GOOD FAITH. ALTHOUGH WE AGREE WITH GULF THAT MINISTER OF NATURAL RESOURCES VARGAS MAY TRY TO BLOCK THE NEGOTIATIONS, WE BELIEVE THAT THE GOE MEMORANDUM TO THE USG, THE ORAL COMMITMENTS, AND WHAT HAS CLEARLY BEEN TO DATE THE FULL SUPPORT OF THE PRESIDENT AND THE MINISTER OFFINANCES, SHOULD PRECLUDE A BREAKDOWN IN THE NEGOTIATIONS.

8. IN A TELEVISED PUBLIC ANNOUNCEMENT BY VARGAS ON SEPTEMBER 30 THAT GULF HAD PAID THE OVERDUE DEPOSITS IN FULL, VARGAS SAID THE GOE'S NEGOTIATING COMMITTEE WILL CONSIST OF THE FINANCE MINISTER, THE DIRECTOR OF THE CENTRAL BANK, THE MANAGER OF CEPE AND THE ATTORNEY GENERAL. (EMBASSY COMMENT: THE OMISSION OF VARGAS FROM THIS COMMITTEE IS GOOD NEWS. HE WILL NEVERTHELESS HAVE A STRONG "SAY" IN THE NEGOTIATIONS, OF COURSE, AND THE CEPE MANAGER WILL PROBABLY BE LITTLE MORE THAN VARGAS' MOUTH-PIECE IN THE NEGOTIATIONS, BUT IT APPEARS THAT FINANCE MINISTER ROBALINO WILL BE THE DOMINANT DECISION-MAKER, AND THAT IS THE BEST WE OR GULF COULD HAVE HOPED FOR.)
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9. AS A FINAL IRONY, VARGAS CALLED THE AMBASSADOR AFTER NOON OF SEPTEMBER 30 TO THANK HIM FOR HIS "MAGNIFICENT GESTURES" IN AVOIDING THE "TRAGEDY" OF CADUCITY. VARGAS ASKED THAT THE AMBASSADOR COME TO HIS OFFICE (WHICH THE AMBASSADOR WAS UNABLE TO DO) TO DISCUSS THE GOE'S NEW DRAFT SERVICE CONTRACTS SO THAT THE AMBASSADOR COULD ASSIST THE GOE IN ATTRACTING AMERICAN PETROLEUM FIRMS TO EXPLORE IN ECUADOR.
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